

103^D CONGRESS
1ST SESSION

H. R. 1188

To provide for disclosures for insurance in interstate commerce.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1993

Mrs. COLLINS of Illinois introduced the following bill; which was referred to
the Committee on Energy and Commerce

A BILL

To provide for disclosures for insurance in interstate
commerce.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti Redlining in
5 Insurance Disclosure Act”.

6 **SEC. 2. FINDINGS AND CONSTRUCTION.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) there are disparities in property and cas-
9 ualty insurance coverage provided by some insurers
10 engaged in interstate commerce between areas of
11 different incomes and racial composition,

1 (2) such disparities adversely affect insurance
2 in interstate commerce and the affordability and
3 availability of insurance for consumers, and

4 (3) disclosures of insurance activities of insur-
5 ers would benefit consumers and insurance regu-
6 lators without imposing any undue burden on
7 insurers.

8 (b) CONSTRUCTION.—Nothing in this Act is intended
9 to, nor shall it be construed to, encourage unsound under-
10 writing practices.

11 **SEC. 3. MAINTENANCE OF INFORMATION AND PUBLIC DIS-**
12 **CLOSURE.**

13 (a) GENERAL RULE.—

14 (1) DESIGNATED INSURERS.—Except as pro-
15 vided by subsection (b)(5), each insurer designated
16 by the Secretary, which sells a line of insurance des-
17 ignated by the Secretary in a Metropolitan Statis-
18 tical Area or Consolidated Metropolitan Statistical
19 Area, as designated by the Secretary (both hereafter
20 in this Act referred to as a “MSA”), shall compile
21 and make available for each calendar year to the
22 Secretary in accordance with subsection (d) and reg-
23 ulations of the Secretary and to the public for in-
24 spection and copying at the home office or at a
25 central depository established under subsection (c)

1 and at least one branch office (if there is one) within
2 such designated MSA—

3 (A) the number and total coverage amount
4 of insurance policies by line designated by the
5 Secretary which were issued or for which the in-
6 surer received a completed application in such
7 designated MSA, and

8 (B) the number of agents of such insurer
9 whose principal place of business is located in
10 such designated MSA and the number within
11 each census tract or county, as applicable, in
12 such designated MSA and with respect to each
13 such agent, whether such agent is an employee,
14 independent contractor working exclusively for
15 such insurer, or an independent contractor
16 appointed to represent such insurer on a non-
17 exclusive basis.

18 (2) NON-DESIGNATED INSURERS.—Except as
19 provided in subsection (b)(5), every insurer which
20 sells an insurance policy in a designated line of in-
21 surance in a designated MSA and which is not a
22 designated insurer in such MSA shall report for
23 each calendar year to the Secretary in accordance
24 with subsection (d) and regulations of the Secretary
25 the number of insurance policies in a designated line

1 sold in such MSA on an annualized basis which ad-
2 justs for varying durations of insurance policies
3 sold—

4 (A) itemized by census tract for policies
5 sold within any county with a population of
6 more than 30,000 within the designated MSA,
7 or

8 (B) by county for insurance policies sold
9 within any other county in such MSA.

10 Such information shall be made available to the pub-
11 lic on a timetable determined by the Secretary but
12 not later than December 31 of the calendar year fol-
13 lowing the calendar year for which the information
14 is required to be reported.

15 (b) REQUIREMENTS.—

16 (1) CONTENT.—The information required to be
17 maintained and made available under subsection
18 (a)(1) shall—

19 (A) be itemized in order to clearly and con-
20 spicuously disclose the number and coverage
21 amount for each line of insurance for which
22 information is required by—

23 (i) census tracts for insurance policies
24 within any county with a population of

1 more than 30,000 within the designated
2 MSA, or

3 (ii) county for insurance policies with-
4 in any other county within such designated
5 MSA,

6 (B) disclose for each designated line of in-
7 surance in a designated MSA and, with respect
8 to each such line, for each census tract or
9 county, as applicable, in the designated MSA—

10 (i) the total number of claims made
11 which with respect to property insurance
12 shall be disaggregated by the type and use
13 of the property insured, and

14 (ii) the total amount paid in claims
15 which with respect to property insurance
16 shall be disaggregated by the type and use
17 of the property insured.

18 (C) disclose the standards and criteria
19 used in underwriting each designated line of
20 insurance, and

21 (D) be made available to the public on a
22 timetable determined by the Secretary but not
23 later than December 31 of the calendar year
24 following the calendar year for which the infor-
25 mation is required to be made available.

1 (2) ITEMIZATION OF DATA.—With respect to
2 insurance for which information is required to be
3 maintained and made available under subsection
4 (a)(1), the following information shall be maintained
5 and made available for each completed application
6 and for each policy:

7 (A) The designated MSA for which such
8 insurance is issued and within such MSA the
9 census tract or county, as applicable, for which
10 such insurance is issued.

11 (B) The designated insurer who issued
12 such insurance.

13 (C) The date of the issuance of such insur-
14 ance.

15 (D) The line of the insurance which is des-
16 ignated and any subline or class of such insur-
17 ance.

18 (E) The type of insurance or policy form
19 for which applications are made and the types
20 of insurance and policy forms which are issued.

21 (F) The amount of coverage provided
22 under such insurance and any applicable
23 deductibles.

24 (G) The amount of the premiums for such
25 insurance.

1 (H) The durations of such insurance.

2 (I) The gender and racial characteristics of
3 the applicants for such insurance.

4 (J) A notation if such insurance was
5 issued in a voluntary or residual market.

6 (K) The reason for any declination, can-
7 cellation, or non-renewal made for such insur-
8 ance.

9 (L) With respect to property insurance,
10 the market value of the property insured and
11 the type and use of property insured.

12 (3) PERIOD OF MAINTENANCE.—Any informa-
13 tion required to be compiled and made available
14 under subsection (a) shall be maintained and made
15 available for a period of 5 years after the close of
16 the first year during which such information is
17 required to be maintained and made available.

18 (4) FORMAT FOR DISCLOSURES.—Subject to
19 subsection (c), the Secretary shall prescribe a stand-
20 ard format for making information available as re-
21 quired by subsection (a). Such format shall encour-
22 age the submission of information in a form read-
23 able by a computer.

24 (5) EXEMPTION.—

1 (A) SECRETARIAL ACTION.—The Secretary
2 may by regulation exempt from the require-
3 ments of subsection (a) any insurer within any
4 State if the Secretary determines that under
5 the laws of such State that such insurer is sub-
6 ject to disclosure requirements on a census
7 tract basis substantially similar to those of sub-
8 section (a) and that such law contains adequate
9 provisions for enforcement.

10 (B) UNITED STATES PROGRAM.—Report-
11 ing shall not be required under subsection (a)
12 with respect to insurance provided by a
13 program underwritten or administered by the
14 United States.

15 (6) COMPLETED APPLICATION.—For purposes
16 of subsection (a) and this subsection, the Secretary
17 shall define “completed applications” to—

18 (A) ensure that the disclosure required by
19 such subsections appropriately reflects the char-
20 acteristics of the applicants interested in pur-
21 chasing insurance in a designated MSA, and

22 (B) prevent insurers from evading the in-
23 tent of such subsections through practices de-
24 signed to discourage applicants from completing
25 applications.

1 (c) ACCESS SYSTEM.—The Secretary, shall imple-
2 ment a system to facilitate access to information required
3 to be maintained and made available under subsection (a).
4 Such system shall include arrangements for a central de-
5 pository of information in each designated MSA and for
6 a telephone number which can be used by the public, at
7 cost, to request such information. Statements shall be
8 made available to the public for inspection and copying
9 at such central depository of information for all designated
10 insurers within such MSA.

11 (d) SUBMISSION TO SECRETARY.—The information
12 referred to in subsection (a) shall be submitted to the Sec-
13 retary. The Secretary shall develop regulations prescrib-
14 ing—

15 (1) the format for making such information
16 available,

17 (2) the method for submission of such informa-
18 tion, and

19 (3) the procedures for making the information
20 available to the public.

21 Any reporting insurer may submit in writing to the Sec-
22 retary such additional data or explanations as it deems
23 relevant to the decision by such insurer to sell insurance.

24 **SEC. 4. DESIGNATIONS.**

25 (a) DESIGNATIONS BY THE SECRETARY.—

1 (1) DESIGNATIONS OF MSA'S.—The Secretary
2 shall, on an annual basis, designate the MSA's for
3 which reporting is required under section 3. At a
4 minimum, the Secretary shall designate the 150
5 MSA's having the largest population. The Secretary
6 may designate additional MSA's on the basis of such
7 criteria as the Secretary may by rule develop. Such
8 a rule shall be issued in accordance with section 553
9 of title 5, United States Code.

10 (2) DESIGNATION OF INSURERS.—For each
11 MSA designated under paragraph (1), the Secretary
12 shall take the following actions:

13 (A) The Secretary shall annually designate
14 the insurers transacting insurance business in
15 such MSA for which reporting is required under
16 section 3. At a minimum, the Secretary shall
17 annually designate the 25 insurers in such MSA
18 having the largest premium volume in the
19 designated lines of insurance.

20 (B) The Secretary shall also annually des-
21 ignate any entity providing insurance in a des-
22 ignated line of insurance as part of a residual
23 market established by State law.

24 (C) The Secretary may designate addi-
25 tional insurers on the basis of such criteria as

1 the Secretary may by rule develop. Such a rule
2 shall be issued in accordance with section 553
3 of title 5, United States Code. In considering
4 whether to designate additional insurers, the
5 Secretary shall ensure that—

6 (i) insurers who specialize in selling
7 insurance in urban areas, including surplus
8 lines insurers, are specifically considered
9 for designation notwithstanding their pre-
10 mium volume, and

11 (ii) that insurers representing at least
12 90 percent of the premium volume in
13 the designated lines of insurance are
14 designated in such MSA.

15 (3) DESIGNATION OF LINES OF INSURANCE.—

16 For each MSA designated under paragraph (1) the
17 Secretary shall designate the lines of property and
18 casualty insurance sold in such MSA for which re-
19 porting is required under section 3. At a minimum,
20 the Secretary shall annually designate—

21 (A) private passenger automobile insurance
22 (including appropriate sublines and classes),

23 (B) property insurance which does not
24 cover commercial property (including appro-
25 priate sublines and classes and related cov-

1 erages such as coverage of property contents
2 and property insured at cash value), and

3 (C) commercial insurance for small busi-
4 ness.

5 The Secretary may designate additional lines of in-
6 surance on the basis of such criteria as the Sec-
7 retary may by rule develop. Such a rule shall be
8 issued in accordance with section 553 of title 5,
9 United States Code. For purposes of this Act, the
10 designation of a line of insurance includes a designa-
11 tion of a subline or class of insurance.

12 (4) TIMING OF DESIGNATIONS.—The Secretary
13 shall make the annual designations required by
14 paragraphs (1), (2), and (3) no later than Septem-
15 ber 1 of the year preceding the year for which re-
16 porting is required under section 3. The Secretary
17 shall notify persons involved in the designations no
18 later than the October 1 which follows the designa-
19 tion.

20 (b) OBTAINING INFORMATION.—The Secretary may
21 obtain from insurers such information as the Secretary
22 may require to make designations under subsection (a).

1 **SEC. 5. DISCLOSURES TO REJECTED APPLICANTS.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (e), the Secretary shall, by regulation issued under section
4 553 of title 5, United States Code—

5 (1) require insurers to provide to each applicant
6 for insurance in a designated line—

7 (A) reasons for denying an application for
8 such insurance or for canceling or not renewing
9 a policy in force, and

10 (B) actions the applicant may take to qual-
11 ify for such insurance, and

12 (2) restrict the use insurers may make of infor-
13 mation relating to—

14 (A) adverse underwriting decisions, or

15 (B) insurance coverage in a residual mar-
16 ket.

17 (b) MODEL ACTS.—In issuing regulations under sub-
18 section (a), the Secretary shall consider relevant portions
19 of model acts developed by the National Association of
20 Insurance Commissioners.

21 (c) ENFORCEMENT.—The Secretary may delegate to
22 the States the authority to enforce the requirements of
23 regulations issued under subsection (a).

24 (d) PREEMPTION.—Subsection (a) is not to be con-
25 strued to preempt any State from imposing on insurers
26 requirements of the type stated in such subsection, includ-

1 ing requirements which are more stringent or more com-
2 prehensive.

3 (e) EXEMPTION.—A regulation issued under sub-
4 section (a) may not apply to insurance provided under a
5 program underwritten or administered by the United
6 States.

7 (f) DEFINITION.—For purposes of subsection
8 (a)(2)(A), an adverse underwriting decision means any of
9 the following actions with respect to insurance trans-
10 actions involving insurance coverage which is individually
11 underwritten:

12 (1) A declination of insurance coverage.

13 (2) A termination of insurance coverage.

14 (3) Failure of an agent to apply for insurance
15 coverage with a specific insurance entity which the
16 agent represents and which is requested by the
17 applicant.

18 (4) In the case of property or casualty insur-
19 ance coverage—

20 (A) place by an insurance entity or agent
21 of a risk with a residual market mechanism, an
22 unauthorized insurer, or an insurance entity
23 which specializes in substandard risks, or

1 (B) the charging of higher rates on the
2 basis of information which differs from that
3 which the applicant or policyholder furnished.

4 **SEC. 6. TERMINATION OF AGENTS.**

5 (a) REGULATIONS.—Except as provided in subsection
6 (d), the Secretary shall, by regulation issued under section
7 553 of title 5, United States Code, ensure that the prac-
8 tices of insurers in terminating agents who handle prop-
9 erty or casualty insurance do not result in an inappropri-
10 ate effect on the availability or affordability of insurance
11 from such insurers. Such regulations shall specifically en-
12 sure that such practices do not result in unfair discrimina-
13 tion against agents as a result of their geographic loca-
14 tions or of the geographic locations of their clients. Regu-
15 lations under subsection (a) shall be stated in terms of
16 minimum standards.

17 (b) PREEMPTION.—Subsection (a) is not to be con-
18 strued to preempt any State from imposing on insurers
19 requirements of the type stated in such subsection, includ-
20 ing requirements which are more stringent or more com-
21 prehensive.

22 (c) ENFORCEMENT.—The Secretary may delegate to
23 the States the enforcement of such regulations.

24 (d) EXEMPTION.—A regulation issued under sub-
25 section (a) may not apply to insurance provided under a

1 program underwritten or administered by the United
2 States.

3 **SEC. 7. IMPLEMENTATION.**

4 The Secretary shall prescribe such regulations as may
5 be necessary to carry out section 3. Such regulations may
6 contain such classifications, differentiations, or other pro-
7 visions, and may provide for such adjustments and excep-
8 tions for any class of transactions, as in the judgment of
9 the Secretary are necessary and proper to effectuate the
10 purposes of such section and to prevent circumvention or
11 evasion thereof or to facilitate compliance therewith.

12 **SEC. 8. RELATION TO STATE LAWS.**

13 This Act does not annul, alter, or affect, or exempt
14 the obligation of any insurer subject to this Act to comply
15 with the laws of any State or subdivision thereof with
16 respect to public disclosure and recordkeeping.

17 **SEC. 9. IMPROVED METHODS.**

18 The Secretary shall develop, or assist in the improve-
19 ment of, methods of matching addresses and census tracts
20 to facilitate compliance by insurers, in as economical a
21 manner as possible, with the requirements of this Act.

22 **SEC. 10. REPORT.**

23 The Secretary shall report to the Committee on En-
24 ergy and Commerce of the House of Representatives and
25 the Committee on of the Senate on the im-

1 plementation of this Act and shall make recommendations
2 to such committees on such additional legislation as the
3 Secretary deems appropriate to carry out this Act.

4 **SEC. 11. COMPILATION OF AGGREGATE DATA.**

5 (a) SCOPE OF DATA AND TABLES.—The Secretary
6 shall compile each year, for each MSA, aggregate data by
7 census tract for all insurers who are subject to section 3
8 or who are exempt from section 3 under subsection
9 (b)(5)(A) of such section. The Secretary shall also produce
10 tables indicating, for each MSA, aggregate insurance un-
11 derwriting patterns for various categories of census tracts
12 grouped according to location, age of property, income
13 level, and racial characteristics.

14 (b) AVAILABILITY TO PUBLIC.—The data compiled
15 and the tables produced pursuant to subsection (a) shall
16 be made available to the public on a timetable determined
17 by the Secretary but not later than December 31 of the
18 year following the calendar year on which the data and
19 tables are based.

20 **SEC. 12. ENFORCEMENT.**

21 (a) CIVIL PENALTIES.—An insurer who does not
22 comply with the requirements of section 3 or a regulation
23 issued under section 5 or 6 shall be subject to a civil pen-
24 alty of not to exceed \$5,000 for each day during which
25 such violation continues.

1 (b) INJUNCTION.—The district courts of the United
2 States shall have jurisdiction over a petition of the Sec-
3 retary to enjoin an insurer from actions which are in viola-
4 tion of the requirements of section 3 or of a regulation
5 issued under section 5 or 6.

6 **SEC. 13. DEFINITIONS.**

7 For purposes of this Act:

8 (1) The term “commercial insurance” means
9 any line of property and casualty insurance, except
10 private passenger automobile and homeowner’s in-
11 surance.

12 (2) The term “insurer” means any corporation,
13 association, society, order, firm, company, partner-
14 ship, individual, or aggregation of individuals which
15 is subject to examination or supervision by any State
16 insurance regulator, or which is doing or represents
17 an insurance business.

18 (3) The term “personal lines of insurance”
19 means any property and casualty insurance issued
20 for noncommercial personal, family, or household
21 purposes.

22 (4) The term “property and casualty insur-
23 ance” means insurance against loss of or damage to
24 property, insurance against loss of income or extra
25 expense incurred because of loss of, or damage to,

1 property, and insurance against third party liability
2 claims caused by negligence or imposed by statute or
3 contract.

4 (5) The term “residual market” means an as-
5 signed risk plan, joint underwriting association, or
6 any similar mechanism designed to make insurance
7 available to those unable to obtain it in the
8 voluntary market.

9 (6) The term “Secretary” means the Secretary
10 of Commerce.

11 (7) The term “State” means any State, the
12 District of Columbia, the Commonwealth of Puerto
13 Rico, the Northern Mariana Islands, the Virgin Is-
14 lands, American Samoa, and the Trust Territory of
15 the Pacific Islands.

16 **SEC. 14. EFFECTIVE DATE**

17 The requirements of this Act shall take effect with
18 respect to calendar year 1995.

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